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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,723	03/14/2002	Christopher R. Uhlik	15685P132	1896
45222 7590 01/22/2007 ARRAYCOMM/BLAKELY 12400 WILSHIRE BLVD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			EXAMINER DANIEL JR, WILLIE J	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 01/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/099,723	Applicant(s) UHLIK, CHRISTOPHER R.	
	Examiner Willie J. Daniel, Jr.	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13,15-28,30-43 and 45-67 is/are pending in the application.
- 4a) Of the above claim(s) 1,3-13,15-28,30-43 and 45-67 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. This action is in response to applicant's communication filed on 06 November 2006. **Claims 1, 3-13, 15-28, 30-43, and 45-67** are now pending in the present application and hereby withdrawn from consideration.

Response to Communication

2. The reply filed on 06 November 2006 is not fully responsive to the prior Office Action because:

- a. Omission to provide a proper claim listing as originally filed (i.e., RCE response as rejected in Non-Final Office action mailed on 07 October 2005).

Since the period for reply set forth in the prior Office action has expired, this application will become **abandoned** unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

3. Applicant on pg. 2, 1st paragraph, states "...provisionally elect the originally submitted claims...", the Examiner respectfully disagrees. The restriction is based on original presentation as a distinction applied to claims with the same numbering.

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4. Furthermore, the Examiner has twice previously indicated to applicant that the responses filed on 29 December 2005 and 19 June 2006 were not fully responsive in Office actions mailed on 19 May 2006 and 06 October 2006, respectively. Both of the office actions were mailed subsequent the Non-Final office action mailed on 07 October 2005.
5. See MPEP § 714.03. [Likewise, once an inadvertent omission is brought to the attention of the applicant, **the question of inadvertence no longer exists**. Therefore, a second Office action giving another new (1 month) time period to supply the omission would not be appropriate under 37 CFR 1.135(c). 37 CFR 1.135(c) authorizes, but **does not require**, an examiner to give the applicant a new time period to supply an omission. Thus, where the **examiner concludes** that the applicant is attempting to **abuse the practice** under 37 CFR 1.135(c) to obtain additional time for filing a reply (or where there is sufficient time for applicant's reply to be filed within the time period for reply to the non-final Office action), the examiner need only indicate by telephone or in an Office communication (as discussed above) that the reply must be completed within the period for reply to the non-final Office action or within any extension pursuant to 37 CFR 1.136(a) to avoid **abandonment**.]
6. Applicant's traverse with respect to the claims have been considered but is not persuasive in view of above. In addition, applicant on pg. 2, 3rd paragraph admits the distinction between the embodiments as described in the specification.

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Conclusion


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (571) 272-7907. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904 or Marsha D. Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WJD,JR/

WJD,JR
17 January 2007


ERIKA A. GARY
PRIMARY EXAMINER